

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON TAXATION**

**Call to Order:** By **CHAIRMAN BOB STORY**, on January 25, 2001 at 8:00 A.M., in Room 472 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Bob Story, Chairman (R)  
Rep. Ron Erickson, Vice Chairman (D)  
Rep. Joan Andersen (R)  
Rep. Keith Bales (R)  
Rep. Joe Balyeat (R)  
Rep. Gary Branae (D)  
Rep. Eileen Carney (D)  
Rep. Larry Cyr (D)  
Rep. Rick Dale (R)  
Rep. Ronald Devlin (R)  
Rep. John Esp (R)  
Rep. Gary Forrester (D)  
Rep. Daniel Fuchs (R)  
Rep. Verdell Jackson (R)  
Rep. Jesse Laslovich (D)  
Rep. Trudi Schmidt (D)  
Rep. Karl Waitschies (R)  
Rep. David Wanzenried (D)

**Members Excused:** Rep. Roger Somerville, Vice Chairman (R)

**Members Absent:** Rep. Butch Waddill (R)

**Staff Present:** Jeff Martin, Legislative Branch  
Rhonda Van Meter, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 330, 1/22/2001; HB 270,  
1/22/2001; HB 244, 1/22/2001  
Executive Action: None.

HEARING ON HB 330

Sponsor: REPRESENTATIVE GEORGE GOLIE, HD 44, Great Falls

Proponents: Eric Feaver, MEA-MFT  
Dustin Stewart, Associated Students of MSU

Opponents: None.

Opening Statement by Sponsor:

*{Tape : 1; Side : A; Approx. Time Counter : 1.9}*

REP. GOLIE said this is a bill providing an individual income tax credit for higher education expenses. This credit would be equal to 10% of the Federal scholarship credit but will be limited to \$500 per tax year. This credit would provide state income tax relief to taxpayers who claim the Hope Scholarship or Lifetime Learning Tax Credit on their Federal income taxes. He read from the exhibit regarding the Hope Scholarship and Lifetime Learning Tax Credit. **EXHIBIT (tah20a01)** The fiscal note shows this bill with cost about \$2.3 million. He would not oppose an amendment that this credit apply only to publically funded eligible educational institutions in Montana. The amendment would reduce the fiscal impact substantially.

Proponents' Testimony:

*{Tape : 1; Side : A; Approx. Time Counter : 5}*

Eric Feaver, MEA-MFT, said they support the bill with the amendments. It is a good idea to offer an opportunity to students and families to educate themselves beyond a secondary level.

Opponents' Testimony: None.

Questions from Committee Members and Responses:

*{Tape : 1; Side : A; Approx. Time Counter : 5.9}*

REP. BALLYEAT said the Federal credit for the Hope Scholarship and Lifetime Learning Tax Credit is not limited to government run higher education institutions and asked why the bill will be amended to include only these type of higher education institutions. REP. GOLIE said one reason is to make the fiscal note more affordable. The second reason is that he has been informed the other colleges were allowed, it would make this unconstitutional according to the Montana State Constitution.

**REP. DALE** asked what the change in the fiscal note would be with the amendment. **REP. GOLIE** said he recommends the committee to get a new fiscal note before taking executive action.

**REP. JACKSON** asked if this could be shown to be constitutional whether the sponsor would be in favor of allowing all higher institutions. **REP. GOLIE** said he has strong information that this would be unconstitutional, so he would like to go forward with the amendments.

**REP. BALLYEAT** said he has had discussions with Legislative Services and they have indicated such a credit would not be unconstitutional if it is not a refundable credit. He asked that in lieu of this the sponsor would consider the bill as is. **REP. GOLIE** said he has a lot of information saying this is unconstitutional, and he does not want this legislation being brought in front of the court system. He stands by his opinion that the amendments should be included.

**CHAIRMAN STORY** asked if the amendments have been prepared. **REP. GOLIE** said they have been. **EXHIBIT(tah20a02)** **CHAIRMAN STORY** asked if the proposed bill and amendments covers accredited universities or if this is taken care of in the Federal statute. **REP. GOLIE** said this is taken care of in the Federal statutes.

**REP. FORRESTER** asked for comment from Jeff Martin as to what Legislative Services' interpretation of the constitution is. **Jeff Martin** said the best thing to do would be to check with the attorney again regarding the exact interpretation of what a tax credit to a private institution would entail. There is a tax credit that is allowed for charitable contributions to public and private colleges and apparently this has never been challenged. **REP. FORRESTER** asked if the attorney's thoughts could be provided to the committee. **Jeff Martin** said the attorney has written something on this and he will provide it.

**REP. WAITSCHIES** asked what people the sponsor is trying to help with this bill. **REP. GOLIE** said families whose children go to college pay some of the tuition. This helps the parents and all others who pay for tuition.

**REP. DEVLIN** asked if trade schools qualify for the tax credit. **REP. GOLIE** said they do.

**CHAIRMAN STORY** referred to testimony saying if the state is not going to put more resources into funding the base cost of education then this is a good idea. When credits are created and taking money out of the general fund, the available money to fund

those costs is reduced. He asked what the preference is. **Eric Feaver** said as long as a tax credit bill stays within the boundaries of our constitution, the state is not able to provide enough state funding for the higher education systems, and we apparently provide tax credits for nearly everything else, why not. **CHAIRMAN STORY** asked for an interpretation of why this bill would be unconstitutional. **Eric Feaver** said tuition tax credit, refundable or not, to a religious institution is clearly prohibited in our constitution.

**Closing by Sponsor:**

***{Tape : 1; Side : A; Approx. Time Counter : 19}***

**REP. GOLIE** said our education is very important and when it comes to funding it is not given priority. This bill addresses the need for taxpayers paying tuition for post secondary education. Anyone in post secondary education could benefit from this.

**HEARING ON HB 270**

**Sponsor:** REPRESENTATIVE DAVID WANZENRIED, HD 68, Missoula

**Proponents:** Eric Feaver, MEA-MFT

**Opponents:** None.

**Opening Statement by Sponsor:**

***{Tape : 1; Side : A; Approx. Time Counter : 21.7}***

**REP. WANZENRIED** said this bill is intended to correct a flaw in the system. This bill would have not been proposed if the school system had the correct number of dollars in the base to start with. There is not enough money being put into the school systems or into the right areas. Certain things are required in classrooms that school boards do not fund. This bill proposes a refundable tax credit to any full-time teacher for supplies not furnished by the school district. Employees in the private sector are reimbursed for costs they are required to incur. Teachers are not reimbursed. He would endorse having the tax credit sunset if there could be a target set for where the base money for education would be in future years. The question is whether we should continue to expect teachers to subsidize our schools because of inadequate state support and a shrinking tax base with costs continuing to increase.

**Proponents' Testimony:**

**Eric Feaver, MEA-MFT**, said many teachers incur expenses on behalf of the students in their classrooms. When there is a need in the classroom and the school district cannot provide that need, teachers meet it. The average teacher salary in Montana is 47<sup>th</sup> in the nation, so we are asking a lot of people who are not paid a lot.

**Opponents' Testimony:** None.

**Questions from Committee Members and Responses:**

*{Tape : 1; Side : A; Approx. Time Counter : 29}*

**REP. BALYEAT** asked why there is no definition of supplies in the bill and if computers qualify. **REP. WANZENRIED** said this is a question of whether we want to put that detail into the bill or allow the Department of Revenue by rule to define the scope of supplies. **REP. BALYEAT** asked how the range of \$50-200 for expenses was figured on the fiscal note. **REP. WANZENRIED** said he did not sign the fiscal note. He does not think the numbers are correct either. **REP. BALYEAT** asked what definition of supplies was used for the fiscal note. **REP. WANZENRIED** said he does not know. **REP. BALYEAT** asked if expenses reimbursed by the school district would qualify for this credit. **REP. WANZENRIED** said no. In his opening, he was trying to make the point that teachers do not have the same opportunity to seek reimbursement of their expenses from the employer as is common practice in private industry. He is uncertain if school related expenses for teachers qualify as reimbursable business costs when they file their tax returns. **REP. BALYEAT** said this part of the tax code includes teachers and allows for an itemized deduction on non-reimbursed expenses. He asked why it is not addressed in the bill that teachers could not get the credit if they were already reimbursed. **REP. WANZENRIED** said this is a policy question that needs to be looked at. **REP. BALYEAT** asked why the teachers were singled out when a lot of employees do not receive reimbursement for expenses and if the sponsor would support the bill if it was expanded to cover all employees across the state. **REP. WANZENRIED** said there is a problem with keeping and attracting people to be in the profession. This bill is intended to address a policy issue. Teachers are expected to absorb these costs, and in the private sector this is not the case.

**REP. FORRESTER** gave an example of a teacher being required to receive messages on e-mail but the school computer did not work, so she used her personal computer, as well as purchased

additional items not provided by the district. He asked if this was usual practice and if a computer would be a legitimate expense. **Eric Feaver** said it should qualify under this tax credit if a teacher had to purchase equipment. The definition of supplies is something that might want to be addressed by the committee.

**REP. DALE** asked if rule making authority would need to be included in the bill if a definition of supplies was received by the Department of Revenue. **REP. WANZENRIED** said he does not believe so. If the committee feels this is necessary, he would not have any objections.

**REP. JACKSON** asked if the Federal definition of supplies should be adopted to keep things consistent. **REP. WANZENRIED** said he is not familiar with that definition, but he would agree to this.

**CHAIRMAN STORY** asked why 33% was chosen for the credit amount of qualified supplies. **REP. WANZENRIED** said it is hard to understand what the scope of this will be. After going through some numbers and examples of salaries and expenses, they found 33% is a good starting place. **CHAIRMAN STORY** asked if they were trying to offset the taxes that they paid on the income already. **REP. WANZENRIED** said yes.

**REP. BALYEAT** asked if Lines 18 and 19 were meant to prohibit them from taking a deduction on their Montana return or also on their Federal return. **REP. WANZENRIED** said he doubted the legislature could prohibit activity on Federal tax forms. The intent is to not allow them to get reimbursed and take a deduction on their state income tax returns.

**Closing by Sponsor:**

***{Tape : 1; Side : B; Approx. Time Counter : 13}***

**REP. WANZENRIED** said we are currently faced with a problem statewide of not having enough teachers to fill the vacancies. Other states pay their teachers far more. This bill is not intended to be a cure-all. It simply seeks to address a certain problem that we have responsibility to address. This is a problem we can deal with in a sense of fairness.

**HEARING ON HB 244**

**Sponsor: REPRESENTATIVE RON ERICKSON, HD 64, Missoula**

**Proponents:**      **Eric Feaver, MEA-MFT**  
                         **Perry Brown, University of Montana**  
                         **George Dennison, University of Montana**  
                         **Lee Spangler, Montana State University**

**Opponents:**        None.

**Opening Statement by Sponsor:**

***{Tape : 1; Side : B; Approx. Time Counter : 15.3}***

**REP. ERICKSON** said this bill creates endowed university professorships in high technology and biotechnology areas funded by development of a Wholesale Energy Transaction Tax. This is his idea of economic development. It has both short-term and long-term economic development consequences. There will be immediate jobs in the short-term. **EXHIBIT (tah20a03)** He explained this exhibit is a national list from the Wall Street Journal and read the criteria. This bill will start the steps to make Montana world class in research. High technology and biotechnology should be focused on because it is the 21<sup>st</sup> century, and we need to start doing better in this area for businesses. The two major universities rather than smaller colleges in Montana will get this money because world class institutions start with some base of excellence. He gave examples of economic development being tied to universities and their research in other states, such as North Carolina, Texas, and California. The WET tax was chosen as a funding source because in the last session a tax break was given to a number of business, and a major one was generators and transmitters of electrical power. We should all be paying for the future of Montana, and major research institutions are part of the future of Montana if we want high technology and biotechnology industries. For every 1000 kilowatt hours of electricity, someone now pays \$.15 and this bill proposes \$.30. The WET tax is a tax on energy transmitted through the state, and Montana exports 40% of our electricity, so about 40% of this tax will be paid by out-of-state residents. This will raise \$3.6 million per year.

**Proponents' Testimony:**

***{Tape : 1; Side : B; Approx. Time Counter : 29.4}***

**George Dennison, President, University of Montana,** said there have been ongoing efforts to promote the economic diversification and development in Montana. While progress has been made, one of the major reasons the progress has not been made that should have been is that we still lack research infrastructure. Montana is

allowed to participate in the EPSCORE program, which is designed to develop competitive research and to compete for Federal funds. With the funding in this bill, we could move forward very rapidly. There is a direct relationship between information technology and our economy. Biotechnology relates to the future, as well as the continued development of the agriculture industry.

**Lee Spangler, Director, Optical Technology Center, Montana State University**, said he would like to provide testimony illustrating an example of what kinds of things are started by research activity at the university. **EXHIBIT(tah20a04)**

**Perry Brown, Dean of the School of Forestry, University of Montana**, said professorships are important in stimulating new research at the highest level. They enhance the quality of faculty attracting some of the finest in the world. They are used to enhance programs and to provide leadership to other faculty members and students. Professorships are used to work with businesses across the state for further development of research products. Usually a world class researcher will bring millions of dollars to the state. He gave examples of how research and professorships have worked and have brought money into the state, as well as professors who have started their own businesses. World class research professorships could help Montana make sure we are a leader in the things that are important to the environment and economy.

**Eric Feaver, MEA-MFT**, said Montana research institutions are doing a magnificent job now, but they need more help. If Montana can grow the economy in this way, we should.

**Opponents' Testimony:** None.

**Questions from Committee Members and Responses:**

***{Tape : 2; Side : A; Approx. Time Counter : 17.5}***

**REP. ESP** asked if the sponsor would consider targeting the money for a specific research purpose. **REP. ERICKSON** said this is targeted. **REP. ESP** asked if the sponsor would consider allowing the legislature to target it even more narrowly. **REP. ERICKSON** said until he knows what the changes might be, he cannot say whether he would support them.

**REP. DALE** asked if other units of the Montana university system have research programs that receive world attention and why this bill is focused on the two major universities. **REP. ERICKSON** said the University of Montana and Montana State University are in charge of a wider set of universities, including the vo-techs.



Over time the large universities may decide that part of the high tech push should include something in technical colleges. There is already an excellence, but it seems we are closer to a higher excellence in the two large universities than in the vo-techs.

**REP. DALE** asked if there was any consideration or contact with the institutions who are administered by the two major

universities. **REP. ERICKSON** said he does not know whether there has been any contact with the smaller institutions. Once again, it will be up to the Board of Regents and presidents of the University System to decide where this money should go. **George**

**Dennison** said he has discussed the proposal with Western Montana College. They are supportive of this bill. There has been a grant received to develop research capacity in biological science, and seven faculty members will be added, which includes a Biology professor at a vo-tech. **REP. DALE** asked if there is

program direction toward technology in harvesting timber and

working with the Federal government. **Perry Brown** said the problems of getting timber from the forest to the marketplace are quite different than high technology. The technology they are engaged in has interfaced with the forest industry via growing and sustaining forests over time. They have utilized information technology in computer mapping, inventory of wildlife and fisheries, and inventory of water. He gave an example of a lynx

study that is utilizing high technology. **REP. DALE** asked if the primary function is to know the forests well, including what is in them and protection from burning, so we may harvest them

someday. **Perry Brown** said this is right. There is a large supply of wood coming off of the private lands. They have

extended technology and information to small tracts of private land who have become providers of wood to mills. **REP. DALE** asked

if based on this private landowners and the state work more closely with them in overall management of timber resources than does the Federal government. **Perry Brown** said in the most recent

years this has been correct.

**REP. DEVLIN** asked if the goal of this bill could be accomplished with existing dollars if the university money is re-prioritized.

**George Dennison** said if the university system only focused on high technology, this could probably be accomplished. To maintain the institution as a comprehensive university which is focused on providing a service to the people of the state, the answer would be this could not be done. The university system is performing efficiently and is focusing its efforts to provide services to the state, and there is not a lot of leeway to do other things. **REP. DEVLIN** asked if there is a recommendation of

what university should get the money if only half of the funding can be allocated. **REP. ERICKSON** said they need to be able to

spread out the money.

**REP. BALYEAT** asked if the technological research would best be done by government or by the private sector, and if the argument is that government does a better job of technological research, does this warrant taking money from the overall private sector through doubling a tax. He referred to Exhibit 3 and asked if it was possible to add all three of the tax issues together it might be at the top of the list. **REP. ERICKSON** said the argument has to be how Montana compares to the list in Exhibit 3. **REP. BALYEAT** pointed out some census statistics regarding money spent in Montana on higher education and asked if spending on university research should develop the economy why the statistics indicate we are going the other direction. **George Dennison** said there is no doubt the state was making an effort to contribute and a larger portion of the dollars contributed to higher education came from state support. Over the last decade, the general fund appropriation going to higher education has declined in absolute numbers and percentages. Montana has made a good effort in support of education, but if you look at how many dollars out of the average per capita income is contributed to higher education, it is about \$7.30, and it was double that in 1990. **REP. BALYEAT** said he believes during the 1990's Montana has taken an increasing percentage of individual income and this is a disincentive for businesses to locate in Montana, as well as having the highest income tax rate in the country. He asked for an opinion regarding this. **George Dennison** said he understands the argument of having the highest income tax rate, but once that is modified by the deductions that are allowed, it goes down considerably, so it is closer to the mid range. His focus is on what has been happening in higher education, and he has worked hard to try to make certain the institution has the capability to respond to need. The state needs to look for areas in which we can make investments which will generate a return, and this is what is being talked about with this bill. He does not believe \$7.30 is a competitive rate, and this is the issue creating the difficulty. **REP. BALYEAT** referred to a university study that says "there is no systematic relationship between education spending and economic growth. In fact the evidence suggests that for higher education, increases in spending were associated with reductions in economic growth." He asked if it could be argued that higher education research would perhaps show a net gain in economic growth if it were separated out from higher education spending in general. **Lee Spangler** said he is not familiar with the study and to respond would be pure speculation on his part. In the technology center, the nature of the education has changed and has been creating jobs. It is uncertain whether this has been happening on all campuses. **REP. BALYEAT** asked if it is the opinion that technological research can better be done through the government sector rather than through the private sector. **Lee Spangler** said not completely. If you look at their projects,

they are a three-way partnership. Private sector funds and combined with government funds to solve problems of interest to the Federal government. **REP. BALLYEAT** quoted a study that stated, "I have seen no persuasive scientifically done studies showing any positive relationship between government development spending and economic growth, but there are literally scores of studies showing that general tax reduction is positively associated with growth. States are far better off taking the money they would give out as development assistance and instead give generalized tax relief, especially lowering the personal income tax marginal rate." He asked for a response from the sponsor. **REP. ERICKSON** said he has not seen this study. His argument has to do with research and where it starts. If centers of excellence research in the two major colleges are allowed to continue, over time industrial research will follow and there will be a spin-off from this. We should think long-term. In the short-term we need to support this bill.

**REP. BALES** asked if this bill would actually hurt us because of the already increasing energy prices and the complaints that have come from that. **REP. ERICKSON** said this is an increase in energy costs, but 40% would be paid by out-of-state users. The big businesses in the state use a lot of energy. The total tax increase will generate \$3.6 million, and this will be steady. Deregulation is doing this to price, but this tax increase is a steady increase and not an increase in percentage over the years. The major industries will definitely pay more, but we have been helping these industries lately. He does not believe this tax will stop a single business in Montana.

**CHAIRMAN STORY** asked if the money provided from this bill will have any affect on the ability to attract grants such as the EPSCORE grant. **George Dennison** said this money directly would not influence their current capabilities to continue to apply for those grants. The purpose of the EPSCORE program to develop capacity so the state can graduate and no longer have the need for that particular kind of assistance. Indirectly this kind of program would be very beneficial because it would accelerate the process by which we reach that graduation stage. Once this stage is reached, they would no longer compete for these kind of monies, but they would be in a position to compete for other kinds. **CHAIRMAN STORY** asked if giving the money to the Board of Regents to disburse into the system is a good idea. **George Dennison** said monies pass through the Board of Regents but are dedicated toward specific research.

**Closing by Sponsor:**

***{Tape : 2; Side : B; Approx. Time Counter : 23.9}***

**REP. ERICKSON** gave an example of the growth of the pharmaceutical school at the University of Montana. This bill will make the already excellent schools get more excellent. It will be for our kids, the global economy, and economic growth in Montana.

**ADJOURNMENT**

Adjournment: 10:09 A.M.

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REP. BOB STORY, Chairman

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RHONDA VAN METER, Secretary

BS/RV

**EXHIBIT** (tah20aad)